

REMARKS

Attorney for Applicants has carefully reviewed the outstanding Office Action on the above-identified application. Applicants have amended the application, as set forth herein, and respectfully submit that the application, as amended, is in condition for allowance. A Request for Continued Examination (RCE) is filed on even date herewith.

Applicants have amended independent Claim 29 and added new dependent Claims 37-40 to further define the present invention. For the reasons set forth below, Applicants submit that Claims 29-40 are patentable over U.S. Patent No. 6,985,886 to Broadbent.

I. SUMMARY OF THE INVENTION

The present invention relates to a system and method for detecting and reporting predatory lending practices in loans. Information pertaining to one or more loans is processed by the present invention to determine whether one or more applicable predatory lending laws have been violated, without requiring knowledge of predatory lending laws by a user of the invention. Predatory lending practices are identified by comparing loan information to applicable predatory lending laws and general loan information to generate variances therebetween, and scoring the variances according to their respective degrees to determine a risk category for each loan based on the sum of the scores for each detected variance associated therewith. A total score for each loan is reported to the user, along with a risk category (e.g., "Pass," "High," and "Investigate"). The user can be notified when variances are detected, and steps can be

identified for resolving the detected variances. The present invention also provides the ability to track the status of each detected variance associated with a loan, and to detect the presence of fraud in connection with a loan based on the detected variances.

II. SUMMARY OF THE CITED REFERENCE

Broadbent discloses a system and method for managing the mortgage loan process. Federal, state, local, and professional regulations and requirements are tracked by the present invention, and a plurality of tasks are generated for processing a mortgage loan application to completion and settlement in accordance with the regulations. The system can generate the required tasks and forward them to the request for execution, and completion of the tasks can be monitored by the system so that a certificate of completion can be generated.

III. ARGUMENT

Applicants respectfully traverse the rejection of the pending claims as being anticipated by Broadbent, and submits that the pending claims, as amended herein, are patentable over this reference. Specifically, Applicants submit that Broadbent fails to disclose, either explicitly or inherently, the claimed steps of **scoring each variance** (between information about one or more loans and predatory lending laws) based upon the degree thereof, whereby knowledge of the predatory lending laws on behalf of a user of the system is not required, and **reporting a total risk score for each loan to a user of the system**, as required by amended independent Claim 29 and Claims 30-40 depending therefrom.

A. Broadbent Does Not Explicitly Disclose Each Element of Applicants' Claimed Invention

The Office Action contends that item 550 in FIG. 5 of Broadbent, as well as column 31, lines 28-52, disclose the limitation of "scoring each variance based upon the degree thereof..." as set forth in amended independent Claim 29 and Claims 30-40 depending therefrom. However, a careful read of these excerpts, as well as the entire disclosure of Broadbent, reveals no such limitation.

Item 550 in FIG. 5 of Broadbent is described only as a "Task Maintenance and Status Reporting Gateway." There is absolutely no disclosure, anywhere in the specification of Broadbent, of the gateway 550 *scoring variances* between information about one or more loans and one or more predatory lending laws. Indeed, a word search of the words "scoring" and "variances" reveals that these words are entirely absent from Broadbent. As such, Broadbent fails entirely to disclose scoring variances between one or more loans and one or more predatory lending laws, much less reporting a total risk score to a user, as required by Claims 29-40.

Column 31, lines 28-52 are similarly deficient. This excerpt merely states that the Originator and Processor Compliance Engine 520 shown in FIG. 5 includes tables and other data sources comprised of state and county regulations 531, licensing regulations 533, federal regulations 535, professional organizational rules 539, and a rule sequencing engine 541 which assure "a meaningful, orderly, and legal application of the available data." Again, the words "scoring" and "variances" are entirely absent

from this excerpt and from the entirety of Broadbent. Clearly, there is no disclosure of any of these components, nor any of the other components of Broadbent, being capable of **scoring variances** between one or more loans and one or more predatory lending laws, much less **reporting a total risk score to a user**, as required by Claims 29-40.

B. Broadbent Does Not Inherently Disclose Each Element of Applicants' Claimed Invention

The Office Action's contention that Broadbent inherently discloses the scoring features of the pending claims is misplaced and inconsistent with Federal Circuit law. The Federal Circuit has specifically stated that, in order for a reference to inherently anticipate a claim limitation, there must be some showing that the missing descriptive matter stated to be inherent in the reference "is *necessarily present* in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999) (emphasis added). However, inherency "may not be established by probabilities or possibilities. The mere fact that a certain thing *may result* from a given set of circumstances is *not sufficient*." *Id.* (emphasis added).

In the present case, there is absolutely no showing that the claimed scoring features of the present application are *necessarily present* in the system of Broadbent. The Office Action contends, in overarching and conclusory fashion, that since the system of Broadbent is designed to achieve the "meaningful, orderly and legal application of available data," it is inherent that the system of Broadbent "compares and

reviews for variances.” However, there is absolutely no showing, anywhere in the text of Broadbent or elsewhere, that the scoring of variances between information about one or more loans and one or more predatory lending laws is a *necessarily present* feature of the system of Broadbent. At best, Broadbent contemplates *applying* one or more tables of regulations to loan information (see col. 31, lines 43-44: “meaningful, orderly, and *application* of the available data” (emphasis added)). However, it cannot be said that the process of *applying* regulatory data is equivalent to *scoring variances* between information about a loan and predatory lending laws, as required by the claims. Clearly, one can apply a set of rules to data without having to score variances between such rules and data, and the concepts of *applying* and *scoring variances* are entirely different. Thus, the mere application of one set of data to another set of data (as is contemplated by Broadbent) does not *necessarily* require the generation of a score, as recited in Applicants’ claims.

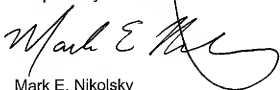
As such, Broadbent does not inherently anticipate the claimed features of **scoring variances** between information about a loan and predatory lending laws, as set forth in Claims 29-40. Broadbent also does not anticipate the feature of **reporting a total risk score to a user**, as required in amended Claims 29-40, and such a feature is not inherent in the disclosure of Broadbent.

IV. CONCLUSION

For the reasons set forth above, Applicants respectfully submit that Broadbent does not disclose, either expressly or inherently, the claimed features of **scoring variances** between information about one or more loans and predatory lending laws and **reporting a total risk score to a user**, as required by amended independent Claim 29 and Claims 30-40 depending therefrom.

All issues raised in the Office Action are believed to have been addressed. Claim 29 was amended, and Claims 37-40 were added. No new matter is believed to have been added. Claims 29-40 are pending and are in condition for allowance. Re-examination is requested and favorable action solicited.

Respectfully submitted,



Mark E. Nikolsky
Reg. No. 48,319
Attorney for Applicant
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102
Tel: (973) 639-6987
Fax: (973) 297-6624

Dated: 8/22/2007